



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twelfth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.2084 of 2018

DURGA PRASATH

... PETITIONER / ACCUSED NO.1

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
THILLAI NAGAR POLICE STATION,
IN CR.NO.69 OF 2018,
TRICHY DISTRICT.

... RESPONDENT / COMPLAINANT

KARATE.V.MUTHUKUMAR

... INTERVENER / DEFACTO COMPLAINANT

For Petitioner : M/S.M.SUBASH BABU Advocate

For Respondent : MR.A.ROBINSON Govt. Advocate (Crl. Side)

For Intervener : MR.KARATE.V.MUTHUKUMAR Party in Person

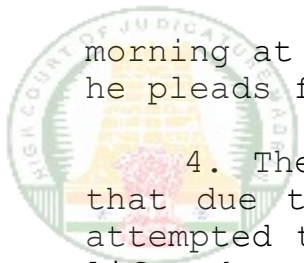
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 341 and 506(ii) of IPC., in Crime No.69 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that due to the dispute existing between the petitioner and the defacto complainant with regard to the car parking in front of the defacto complainant's office, at the instigation of the petitioner, the other accused abused the petitioner using filthy language and threatened him through phone. Thereby, on 05.01.2018, the petitioner along with other accused entered in to the defacto complainant's office and assaulted him using deadly weapons. Hence, the present case has been registered against the petitioner and other accused for the above said incident.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the alleged offence. He further submitted that the alleged occurrence had taken place on 05.12.2018 at 11.00 p.m., but the petitioner being an advocate lodged the complaint in the next day



morning at 10.15 a.m., it shows that it is a concocted story. Hence, he pleads for grant of anticipatory bail to the petitioner.

4. The learned counsel appearing for the intervenor submitted that due to the previous motive, the petitioner and other accused attempted to commit murder by engaging some persons. So, there is a life threat to the defacto complainant/intervenor. Further, they abused him by using filthy language and his advocate profession. He further submitted that if the petitioner is granted anticipatory bail, it is not safety for the defacto complainant's life. Hence, he prays for dismissal of the anticipatory bail application.

5. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that totally there are three accused involved in the said occurrence. The petitioner was also present during the time of occurrence and the specific overtact against the petitioner is that he caught hold the defacto complainant at the time of occurrence. He further submitted that the investigation is in progress.

6. The submissions made by the learned counsels appearing for either side are considered. It is alleged that during the time of occurrence, the petitioner and other two accused in this case intensely insulted the profession of the defacto complainant and threatened him by using filthy language. However, on go through the averments made in the FIR, nobody was injured in the alleged occurrence. Further more, the defacto complainant being an Advocate lodged the complaint before the respondent police after the lapse of nearly 13 hours from the time of occurrence. Moreover, except 506 (ii) of IPC., all other petition mentioned offences are bailable in nature. So, considering the nature of offence committed by the petitioner, custodial interrogation may not be necessary for completing the investigation. Therefore, considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate No.IV, Trichy, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) the petitioner shall stay at Theni and report before the Theni Police Station daily twice, at 10.30 a.m., and 05.00 p.m., until further orders;

(ii) the petitioner shall not tamper with evidence or witness either during investigation or trial;



(iii) the petitioner shall not abscond either during investigation or trial;

(iv) on breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioner shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

sd/-
12/02/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO.IV, TRICHY.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3 THE INSPECTOR OF POLICE,
THILLAI NAGAR POLICE STATION,
TRICHY DISTRICT.
- 4 THE INSPECTOR OF POLICE,
THENI POLICE STATION, THENI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.M.SUBASH BABU Advocate SR.No.2342

ORDER
IN
CRL OP(MD) No.2084 of 2018
Date :12/02/2018

MKV-CM-SAR 2/13.2.2018/3P-7C